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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,673	01/21/2004	Ismo Kuivamäki	0837-0162P	1936
2292	7590	07/05/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			BURCH, MELODY M	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/760,673	KUIVAMAKI, ISMO	
	Examiner	Art Unit	
	Melody M. Burch	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 3, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by JP-10331864 (JP'864).

Re: claims 1 and 3. JP'864 shows in figure 1 a torque controlled brake arranged between a drive shaft 12 and a driven shaft 13, the brake comprising:

a brake disc/clutch disc arrangement arranged between the drive shaft 12 and the driven shaft 13 and comprising a first disc rightmost element 34 that is axially movingly but non-rotatably arranged on the driven shaft 13 and a second disc leftmost element 34 that is axially movingly arranged between the first disc and the drive shaft, a first set of friction surface means arranged between the first disc and the second disc as shown in figure 1 immediately to the right of the second disc, a second set of friction surface means arranged between the second disc and a body 11 of the brake as shown in figure 1 to the left of the first disc, a spring arrangement 17 arranged to axially press the discs and the friction surface means co-operating therewith against each other in order to achieve a braking engagement, and cam means 20,30,41,50,55 arranged (radially) between the drive shaft and the (top of the) brake disc/clutch disc arrangement, said means comprising a first cam part 20 that is non-rotatably fastened

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to the drive shaft and a second cam part 55,30 that is non-rotatably arranged on the second disc, the cam means causing by the impact of torque and rotation of the drive shaft and the possible counter torque of the driven shaft the relative axial position between the discs and the friction surface means to change in order to detach at least partly the braking engagement against the force caused by the spring arrangement, wherein the second disc is axially movingly arranged in relation to the second cam part, and that a third set of friction surface means shown in figure 1 between the first and second discs is arranged (radially) between the second cam part and the top of the first disc (and axially between the first disc and the left portions of the second cam part) in order to move the torque from the drive shaft to the driven shaft.

Re: claim 2. JP'864 shows in figure 1 the limitation wherein the third set of friction surface means is arranged on the second part (interpreting the third set of friction surface means to be the outer surface of one of elements 21 arranged between the first and second discs).

Re: claim 4. JP'864 shows in figure 1 the limitation wherein the third set of friction surface means is mounted on the first disc (interpreting the third set of friction surface means to be the left surface of the first disc).

Re: claim 5. JP'864 shows in figure 1 the limitation wherein the body 11 of the brake comprises two parts shown connected at the unnumbered bolt/screw which are axially adjustable in relation to one another whereby the position or point of action of the second set of friction surface means can be adjusted and restricted by means of the second body part.

Re: claim 6. JP'864 suggests in figure 1 the limitation wherein threads are arranged between the body parts. Examiner notes that the bolt/screw shown connecting the two body parts has threads (a portion of the threads being shown in the small area between the two body parts).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP'864 in view of US Patent 6250438 to Chern.

JP'864 describes the invention substantially as set forth above, but lacks the specific shape of the of the cross section of the cam parts.

Chern teaches in figure 7 the use of a cross section of a cam part having the recited shape.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the shape of the cam parts of JP'864 to have included the recited shape including kidney shaped grooves, as taught by Chern, in order to provide a desired cam actuated movement depending on the application. Also, In *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) the court held that the configuration of a claimed object was a matter of choice which a person of ordinary skill

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in the art would have found obvious absent persuasive evidence that the particular configuration is significant.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP'864 in view of US Patent 5853165 to Kuivamaki.

JP'864 describes the invention substantially as set forth above, but does not include the limitation of the brake being arranged in an electric motor driven chain hoist.

Kuivamaki teaches in figure 2 and in the abstract the use of a brake being arranged in an electric driven chain hoist.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the brake of JP'864 to have been included in an electric driven chain hoist, in view of the teachings of Kuivamaki, in order to provide a means of selectively decelerating the lifting action of the device.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP'864 in view of US Patent 6352243 to Samejima.

JP'864 describes the invention substantially as set forth above, but does not include the limitation of the brake being arranged in a manually operated chain hoist in which the brake is placed between a hand-operated hoist or the like and the hoisting apparatus.

Samejima teaches in figure 1 the use of a brake being arranged in a manually operated chain hoist in which a brake shown in the area of elements 9, 10, etc. is placed between a hand operated hoist or the like 20 and the hoisting apparatus 13.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the brake of JP'864 to have been included in a manually operated chain hoist, in view of the teachings of Samejima, in order to provide a means of selectively decelerating the lifting action of the device.

### ***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6877594 to Kuivamaki in view of JP'864. The instant application and the Kuivamaki patent recite the various components of the torque controlled brake, but the instant application is broader with respect to the thrust ring and the motor and the patent lacks the limitation of the third set of friction surface means.

The thrust ring and the motor are covered by *In re Goodman*. With regards to the third set of friction surface means, JP'864 teaches the use of a third set of friction surface means shown in figure 1 between the first and second discs is arranged

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(radially) between the second cam part and the top of the first disc (and axially between the first disc and the left portions of the second cam part). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Kuivamaki patent to have included a third set of friction surface means, as taught by JP'864, to increase the braking capacity of the torque controlled brake.

### ***Response to Arguments***

9. Applicant's arguments filed 4/12/05 have been fully considered but they are not persuasive. Upon further review, Examiner notes that JP'864 shows the spring arrangement comprising the recited first spring array or first three spring portions of element 17 and a second spring array or last spring portions of element 17 wherein the first spring array is greater than the spring force of the second spring array as recited in amended claim 1 which includes the limitation of claim 7 and the coupling wheel is the element 32 on which the third set of friction surfaces means are arranged.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*mmb*  
mmb

June 27, 2005

*Melody M. Burch*  
6/27/05